

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CIVIL ACTION NO. 3:05-CV-1805-L
(ECF)

KEELY DAVIS,

Plaintiff,

vs.

WAL-MART STORES, INC.,

Defendant.

**APPENDIX TO
DEFENDANT'S BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

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CERTIFICATE OF SERVICE

I certify that, on this 4th day of August, 2006, I electronically filed the Appendix to Defendant's Brief in Support of Motion for Summary Judgment with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the CM/ECF participants identified below. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to any non-CM/ECF participants identified at the time of electronic filing.

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IN THE UNITED STATES DISTRICT COURT
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KEELY DAVIS,)
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PLAINTIFF,)
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VS.) CIVIL ACTION
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) NO.: 3:05-CV-1805-L
WAL-MART STORES, INC.,)
)
)
DEFENDANT.)
)

ORAL DEPOSITION OF
KEELY DAVIS
January 10th, 2006
Volume 1

ORAL DEPOSITION OF KEELY DAVIS, produced as a witness
at the instance of the DEFENDANT, and duly sworn, was
taken in the above-styled and numbered cause on the 10th
day of January, 2006, from 10:14 a.m. to 4:42 p.m.,
before Ruth McClintick, CSR in and for the State of
Texas, reported by machine shorthand, at The Clark Firm,
1401 Elm Street, Suite 3404, Dallas, Texas, pursuant to
the Federal Rules of Civil Procedure and the provisions
stated on the record or attached hereto.

1 A. I did in my -- my thing -- my statements.

2 Q. Okay. We'll discuss that in a little bit. When
3 did you maintain that you were sexually harassed at
4 Wal-Mart?

5 A. What do you mean by "maintain"?

6 Q. When were you sexually harassed?

7 A. While I was an assistant manager and co-manager
8 at Store 259.

9 Q. When did you become an assistant manager at Store
10 259?

11 A. I believe, it was three or four years after being
12 with the company.

13 Q. Well, when you were promoted to an assistant
14 manager position, you were transferred upon that
15 promotion to Store 789 in Mesquite, Texas, correct?

16 A. Yes, sir.

17 Q. And you remained an assistant manager at the
18 Mesquite, Texas Store 789 until you were promoted to a
19 co-manager position at Store 259 in Rockwall, correct?

20 A. No, sir. I went to 3224 after Mesquite when I
21 got promoted out of Mesquite.

22 Q. Why don't we do this. When were you hired by
23 Wal-Mart?

24 A. 1997.

25 Q. Are you sure about that?

1 A. '96, '97.

2 Q. Okay. October 10th, 1996, sound about right?

3 A. Yes, sir.

4 Q. And you were hired as a cashier, correct?

5 A. Yes, sir.

6 Q. And that was in Garland?

7 A. Yes, sir.

8 Q. What was the next position you held at Wal-Mart?

9 A. Customer service manager.

10 Q. A customer service manager position is also
11 called a CSM?

12 A. Yes, sir.

13 Q. Do you recall when you were promoted to CSM
14 position?

15 A. It was shortly after I started working there.

16 Q. Does February 10th, 1997, sound about right?

17 A. Yes, sir.

18 Q. And was that in Garland as well?

19 A. Yes, sir.

20 Q. What's the next position you held with Wal-Mart?

21 A. Department manager.

22 Q. And do you recall that that promotion occurred on
23 or about May 29th, 1997?

24 A. Yes, sir.

25 Q. And that was also in Garland, correct?

1 A. Yes, sir.

2 Q. And what was the next position you held after
3 department manager?

4 A. Support manager.

5 Q. Do you recall that that occurred less than a
6 month after you become a department manager -- strike
7 that.

8 Do you know how long you were a department
9 manager?

10 A. It was over a year.

11 Q. Okay. Do you recall that it was actually two
12 years that you were a department manager?

13 A. I didn't realize it was that long.

14 Q. Okay. My records reflect that you were promoted
15 to a support manager position on June 15th, 1999. Does
16 that sound about right to you?

17 A. Yes, sir.

18 Q. That was also in Garland?

19 A. Yes, sir.

20 Q. And the next position you held after support
21 manager was that of assistant manager?

22 A. Yes, sir.

23 Q. Do you recall that that occurred in early 2001?

24 A. Yes, sir.

25 Q. And at that point in time when you got promoted

1 A. Yes, sir.

2 Q. And you're now saying that after working as an
3 assistant manager trainee at Mesquite, you then went to
4 Rockwall Store No. 259 not to Garland as you testified
5 earlier, correct?

6 A. As an assistant manager, yes.

7 Q. And so that first period of time that you worked
8 at Rockwall Store 259 when you were an assistant
9 manager, how long did you work there?

10 A. About two and a half years.

11 Q. So that would take us to some point in time in
12 2003?

13 A. I believe so.

14 Q. And that would be the latter part of 2003, right?

15 A. I believe so.

16 Q. And then late 2003 you transferred to the Garland
17 store?

18 A. No, sir.

19 Q. Okay. Well, you told us before you went from
20 Mesquite to Rockwall to Garland to Rockwall?

21 A. No, sir. I went from Mesquite as a trainee to
22 Rockwall as a salaried member of management. And then I
23 went back to Mesquite for three and a half weeks before
24 I was promoted to a co-manager.

25 Q. When you went to Mesquite in late 2003, what

1 position did you hold?

2 A. I was a training coordinator, slash, assistant
3 manager. I was a salaried member of management.

4 Q. And after working as a training coordinator,
5 slash, assistant manager at Mesquite in late 2003, where
6 was the next place you went?

7 A. 3224. I was promoted to co-manager.

8 Q. And when was that?

9 A. Well, if I was an assistant in Mesquite in 2003,
10 it would still be 2003.

11 Q. So you worked as an assistant manager for two and
12 a half years before you were promoted to a co-manager
13 position?

14 A. Just -- yeah, I believe so.

15 Q. Okay. Your testimony earlier that you worked as
16 an assistant manager for only three and a half weeks
17 before you were promoted to a co-manager was incorrect,
18 right?

19 A. No. I don't understand your --

20 Q. I'm just trying to make sure I have a clear
21 record. You've sort of jumped all over the place, and I
22 want to make sure that we clear it up. You said early
23 on, initially, that you worked as an assistant manager
24 and then three and a half weeks later you were promoted
25 to a co-manager. You've now told us that you worked as

1 an assistant manager for two and half years and then
2 were promoted to a co-manager position. I'm just trying
3 to figure out which one is right.

4 A. No, sir. I was -- I worked as an assistant for
5 two and a half years. I worked in Garland -- I'm sorry,
6 Mesquite three and a half weeks, and then I was promoted
7 to a co-manager. That is correct.

8 Q. And when you went to work as a co-manager in
9 Garland how long did you work there?

10 A. I believe it was about five months.

11 Q. And then you went to Rockwall as a co-manager?

12 A. Yes, sir.

13 Q. Was that in January of 2004?

14 A. I believe so.

15 Q. And you stayed in Rockwall as a co-manager until
16 May of 2004?

17 A. Yes, sir.

18 Q. And then where'd you go?

19 A. I went to Wylie.

20 Q. And in what position?

21 A. Co-manager.

22 Q. And then in February 2005, you were demoted to an
23 assistant manager?

24 A. Yes, sir.

25 Q. Have you held the position of assistant manager

1 in Wylie -- strike that.

2 Where did you go after -- strike that.

3 You're not currently working at Wylie,

4 correct?

5 A. No, sir, I'm not.

6 Q. Where did you go after you -- working at Wylie?

7 A. 2996 on Frankford and Marsh.

8 Q. When -- when you were demoted to an assistant
9 manager in February of 2005, that's when you left Wylie
10 and went to Frankford and Marsh?

11 A. Yes, sir.

12 Q. And you've been in that position in that store
13 since?

14 A. Yes, sir.

15 Q. And so during your employment with Wal-Mart,
16 you've only been demoted on one occasion?

17 A. Yes, sir.

18 Q. And that was in February of 2005?

19 A. Yes, sir.

20 Q. Are you claiming you were sexually harassed at
21 any store other than the Rockwall store?

22 A. No, sir.

23 Q. And the only time you worked in the Rockwall
24 store was when you were an assistant manager in the
25 years 2001 to 2003, and then when you were a co-manager

1 Q. You were not sexually harassed at the Wylie
2 store, correct?

3 A. No, sir.

4 Q. That is a correct statement?

5 A. Yes, sir, it is.

6 Q. Do you remember the date of when you transferred
7 to the Wylie store?

8 A. Not the exact date.

9 Q. Okay. Do you recall that you received a coaching
10 for improvement, and then immediately after that, you
11 were transferred to the Wylie store?

12 A. Yes.

13 Q. Okay. And do you recall that coaching was a
14 decision-making day?

15 A. Yes, sir.

16 Q. Okay. And that decision-making day was issued to
17 you on May 4th, 2004. Would that mean that you
18 transferred -- strike that.

19 And if the decision-making day was issued to
20 you May 4th, 2004, would that mean that your last day of
21 work at the Rockwall store was May 4th, 2004?

22 A. Yes, sir.

23 Q. Okay. Let me just get this clear on the record.

24 (Defense Exhibit No. 6 marked.)

25 Q. (BY MR. FORMAN) Let me show you what's been

1 marked as Defense Exhibit 6 for identification. I'll
2 ask you to take a look at that, and then just let me
3 know if you recognize this as the decision-making day
4 coaching for improvement that we were just talking
5 about.

6 A. Yes (witness reviews document).

7 Q. Okay. And on -- strike that.

8 And Defense Exhibit No. 6 indicates that you
9 received this decision-making day coaching on May 4th,
10 2004, at about half past midnight; is that correct?

11 A. It was in the afternoon when I got it.

12 Q. Okay.

13 A. When I got the coaching.

14 Q. So is that -- maybe it was around 12:30 in the
15 afternoon as opposed to 12:33 in the morning?

16 A. Yes.

17 Q. So May 4th, 2004, was the last day that you
18 worked at Rockwall?

19 A. Yes, sir.

20 Q. Okay. And do you recall if you experienced any
21 sexually harassing behavior on that day, May 4th, 2004?

22 A. No, sir.

23 Q. Okay. Do you know when the last event of
24 sexually harassing behavior that you've experienced took
25 place?